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THE
RIGHTS
OF THE
CLERGY
OF

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IRELAND

Ch. 83
CANDIDLY CONSIDERED.

By a Friend to the CONSTITUTION.

DUBLIN:

Printed by G. FAULKNER in *Parliament-street,*
M DCC LXVII.

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UNINFLUENCED by Interest, and Unbiaſſed by Prejudice, I take up now my Pen, to give my Thoughts relative to a Matter, that has of late been ſuggeſted, to have been the Cauſe, in ſome Degree, of ſeveral tumultuous Outrages and Diſturbances, contrary to Decency, and to all Order neceſſary to any eſtabliſhed Society ; I mean the Property of the Clergy.

But I shall not inquire whether this Suggestion be well founded or not ? Nor whether the Clergy in pursuing their Rights, might not have been guilty of some Excess ?

Nor shall I search into the Foundation of another Opinion deduced from some certain Facts, and not only believed, but supported by very respectable Persons, that the late riotous Enormities (which are not yet quite suppressed *) have arisen from more pernicious Principles, the deep Designs of Popery and Rebellion.

Whatever is the Case, the Manner in which those obscure Redressers of pretended, or real Grievances have acted, is altogether subversive of the Laws of Society, and promotive of Sedition to the utmost of their Power.

I shall therefore (without any studied Order, or Exactness) only shew the Right the Clergy have in this Country to Tythes. And I hope to point out to my Brethren, the Laity, in prosecuting this Subject, a most infallible Method of never suffering

* I have been informed that in Defiance of the late Act against Riots, Numbers of Persons assembled in the common tumultuous Manner, have very lately, not long before the opening of this Session of Parliament, drawn a Parcel of Tythe Hay for about two Miles, and destroyed it even in the Suburbs of the City of *Kilkenny*, and perpetrated many more desperate Actions, in other Parts of the Country.

ing the least Oppression, or rigorous Exaction from them.

I will not pretend to say, that the Clergy have a Divine Right to a Tenth of the Produce of our Lands. Nor shall I regard any Arguments produced from Scripture for that Purpose ; for such must be too inconclusive and not convincing, as they must be chiefly brought from the Old Testament, and the *Jewish* Dispensation : Which Dispensation cannot bind us, nor are We to be governed by it's Laws any farther, than they are founded in common Reason, and natural Religion.

But where any Religion is Established in a Society, and without Religion no Society can subsist, which every Man of Reflection must allow, (and therefore I shall not think of entering into any formal Proof of that Position) where any Religion is established, I say, that Society is under a moral Obligation of supporting the Ministers who perform the Offices, instruct the People in, and inculcate the several Precepts enjoined by it.

But what that Support should be, every Society has a Right to determine for itself.

And our Ancestors have very wisely taken their Model from the *Jewish* Œconomy ; and allocated a Tenth of the yearly Increase of our Grounds for

the Maintenance of the Clergy ; as an Income of the greatest Stability, which must always bear a just Proportion to the Value of Money, let the Riches of the Nation increase ever so much.

For if an annual Stipend, or Sum of Money had been appointed even an hundred Years ago, for the Support of the clerical Order ; what a disproportionate, and perhaps, miserable Pittance must it be at this Day from the Diminution in the worth of Money ?

And if that Stipend had been settled, several Centuries before that, how much more wretched must it be now, and altogether incapable of supporting even some of the lowest Members of Society ?

But our Predecessors here very early, and in *England* even under the *Saxon* Kings appointed Tythes, as the most unfluctuating, and certain Revenue for the Clergy, adequate to the Purpose : and though Lands might have been granted before the Appointment of such Tythes, and it might have been some Innovation and Incumbrance on the Proprietors of them to be made subject to that Charge, yet I can venture to say, that there is not a Tenure now extant,* that did not descend to its pre-

* I do not include here Lands discharged of Tythes, such as Abby Lands, &c. but those now subject to them.

present Proprietor, liable to that Demand ; and consequently that no new Tax is raised, nor any Injury inflicted on him ; for he received the Grant of his Lands, and came into Possession of them under a Covenant faithfully to pay (I may say) that chief Rent.

And this Right of the Clergy has been repeatedly in successive Times confirmed by the whole Legislature, and frequent Laws made for the Recovery of their Right, and for the Security of that Ecclesiastical Property.

And it would be quite useless to enumerate the several Acts of Parliament made for that Purpose, as the Fact is not to be contested.

But let us now inquire into the reasonable Objections that can be made against this Charge.

There are only two, that carry the appearance of Truth or Consequence.

The Method of raising and collecting this Charge ; and the Manner of suing for it, in the Spiritual Court.

It is asserted that Tythe Proctors in general, and the Under-farmers of the Clergy are notorious

Rogues, rigorous Exacters of illegal Dues, and Oppressors of the Poor ; that they make the Welders agreeing for their Tythes, not only pass a Promisfory Note for the Sum agreed upon for the Value of the Tythes, be it ever so small, but also for another Sum payable to themselves for drawing that Note.

I am not inclined to entertain a good Opinion of those kind of People, and doubt not that they, and every one of their Sort would seize upon every Advantage that offers, when they can do it with Impunity.

But who is it that suffers in this Case ? Every Farmer knows that when his Tythe is demanded, if he cannot agree for it, and settle its Value, he may give it in kind ; and he is also fully informed, that when the worth of it is agreed upon, that the Tythe Proctor's Fee must also be paid, and if the Tythe be not worth both, he need not make any Agreement for it, but deliver it in Kind : So that it is the Clergyman alone that suffers, for the Tythe Proctor is paid out of his Substance.

Hence it is evident that no Injury can possibly arise to the Occupant of the Land : By giving up the Tythe to the Clergyman or his Farmer, it may distress them, and certainly render it of less Value by deducting the Expence of Carriage out of it ; but it can never bring the least detriment to the Welder.

It

It is absolutely necessary (be the Voice of Riots and Tumult ever so boisterous) that the Clergy should employ those Persons above-mentioned ; they are mostly ignorant of the Value of Lands or the Produce of them.

Their Time is taken up in Study and Contemplation, in inculcating the Charms of Benevolence, the Powers of Honesty and Justice, the confident Boldness of Truth, the Perseverance of Patience, and the solid Comforts of Religion. And if it is not so, yet so it certainly should be ; nor should the Pursuit of other Matters, and the Dissipations we see in some be attributed to the rest : For though it may be better, that such Persons should be employed with their Tythe setting, than pursuing their own Devices, and degrading their Character : Yet certainly no Necessity will lie upon those to follow the same Employment, who live up to the Purposes of their Duty in improving Society, in recommending Virtue, and Religion, as well by Precept, as Example.

No Fraud or Injustice can ever happen in this Case then, more than in any other Case of common Commerce with Mankind. I doubt not that many of the Clergy (for I am sure there is not one of them that gets a fifteenth, much less a tenth) would heartily rejoice at receiving an annual certain Income properly paid, and secured in lieu of Tythes, provided it was possible to fix a Standard
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to adjust that Income to the Rise of Commodities, and the Fall of Money ; but this I am afraid, is not within the power of Human wisdom ; and I am confident that the Legislature will never make any Alteration in that ancient Right, and firmly ratified Tenure of the Clergy, without their Consent.

For if the Property of every Individual is so well secured to him by this our happy Constitution, that it is seldom changed without the Consent of the Proprietor, how much more unchangeable, and inviolable should the Estate of so large a Body of Men be ?

I could say a great deal more on this Head, but more Arguments would be altogether superfluous upon so clear a Point.

* For if every Welder occupies his Ground on this Condition, that he gives a Tenth of the yearly Produce to the Clergyman of his Parish, which is the real Fact ; if he cannot compound for that Tenth, by agreeing upon, and paying the Value of it to him, let him candidly, giving fair Notice deliver it in kind, and then the craftiest Villain can never injure him.

And if Tythes were abolished, what Benefit could arise from thence to the poor Yeomanry and Tenants ? None at all !

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The Landlords would increase the Prices of their Grounds, and be the only Gainers.

And if Tillage is discouraged by this Charge, which is the great and repeated Objection ; is that a Reason, that the Clergy alone should lose their Right, or suffer in their chief Rent : when the other Lessors will exact the utmost of their Dues ?

The Prudence of Parliament has provided some, and can find out more means for its Encouragement, without injuring any one ; and Landlords would think that Law a little severe, which should oblige them to abate even a small Sum in their Rent for each Acre under Tillage.

The second Objection is to the suing for Tythes in the Spiritual Court ; this Objection has certainly more Plausibility than Force : For is it to be imagined that a Spiritual Judge must be more corrupt than a Temporal ?

Will he not be as attentive to the Dictates of Conscience, and the interest of his Soul ? and will he not be as careful and deliberate in giving Judgment ?

The inferior Judge whether Clerical or Lay, knows that an Appeal lies from his Sentence to the
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the Metropolitcal Judge, and that he is generally a Layman, and from him to the Dernier Resort ; the King's Delegates, who are almost altogether Laymen : For although a Bishop or two may be appointed, yet they seldom attend, and therefore every partial and improper Conduct of his will not only be canvassed and reformed, but exposed.

But the Objection perhaps is not so much to the Prejudice of the Judge, as to the Tedioufness of the Proceedings in that Court.

No doubt, the Proceedings in all Courts are too tedious, and it may be not less so in the Chancery of the Exchequer, where Tythes are commonly sued for, than in the Court in Question.

These Delays in many Respects are indulged upon strict Principles of Reason, and the truest Love of Justice, but the Depravity of Mankind has rendered those Indulgences very grievous and burthenfome to Litigants. However the Legislature has lately enacted a Law in this Case, which ordains that the Judge shall proceed summarily at the Petition of either Party in Suits for Tythes ; and has also given other Advantages to cut off Protraction and Expence.

And as this Law is upon the Point of expiring, it is to be hoped that it will be continued this Session, and in some Part amended :

A few wished for Amendments, that I think absolutely necessary, I humbly presume to mention, with great Deference to the learned Gentlemen who constructed this Law.

It is enacted, that where the Persons cited shall not appear on the first Citation, the Judge shall decree another Citation reciting the former, and intimating that whether the Party shall appear, or not, he will proceed to hear and determine the Cause, the Absence, or Contumacy of the Person notwithstanding: And it shall be lawful for the Judge to proceed to hear and determine such Cause in thirty Days after due Proof is made before him of the Service of that second Citation, IN SUCH MANNER as if the Person so cited had been excommunicated for such his Contempt in not appearing.

Now the Practice certainly is, that when a Person is excommunicated for not appearing, he is to denounced excommunicate, and standing out so for forty Days, the King's Writ, de Excommunicato Capiendo, is to be applied for against him, upon the Bishop's Significavit, and upon his being taken upon that, he is to be detained in Custody, until he makes Satisfaction, and appears;

But

But all this Time, the Proceedings in the principal Cause are restrained, and the Judge cannot hear and determine it.

Now if the Judge, by the present Act of Parliament, upon the Party's not appearing as is said above, is to proceed only in such Manner, as if the Person cited had been excommunicated for not appearing, how can the Matter of Tythes be determined, when the Cause must stop, if Proceedings are to be the same AS WHEN the Person was excommunicated ?

But this is clearly contrary to the Meaning of the Act, and therefore the Expression should be, that the Judge shall proceed in SUCH MANNER as if the Person had appeared, and contested the Libel.

This will clear up that apparent Contradiction in the Act and ascertain its Meaning.

This Law opens an easy and short Way to the Recovery of predial Tythes only, but leaves mixed Tythes such as Lamb and Wool, &c. which are frequently substracted, to be sued for in the usual Manner ; so that the Clergy are often obliged to institute two Suits for the Tythes which one Person substracts, which must be detrimental to both Parties.

It would be very useful therefore to let them sue in this summary Way for Tythes in general.

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The Power of attaching the Party for the Sum he is condemned in granted to two Justices of the Peace by the 33d. of Henry VIII. is taken away by this Statute, and a Liberty given to sue by Civil Bill for the Sum decreed for ; provided it does not exceed twenty Pounds : So that as to larger Sums, the Clergy are left to the old tedious Process of the Law for the Recovery of them by ecclesiastical Censures : Would it not therefore be better not to limit the Sum ? I wish that the ninth Section of of this Statute was a little more explicit ; and that it was fairly pointed out by what Matter or Thing given in Evidence, the Judge of Assize shall have Power, to discharge the Party of the whole, or any Part of the Sums decreed against him by the Sentence of the ecclesiastical Court ; and so have Authority to annul that Sentence.

But after all ! Suits for Tythes are not so very frequent in the Spiritual Courts, the Temporal Courts are oftener troubled with them ; and I have been intimately acquainted with one Ecclesiastical Court these Twenty Years past, and never knew in all that Time above one Cause of Tythes prosecuted to a Conclusion, and definitive Sentence.

I shall give this Counsel to all that mean well, and are prosecuted for Substraction of Tythes in that Court ; that is, upon their first Appearance there

there, to make a Tender of the full Value of the Tythes in question, at the Acts, together with the Costs then incurred; and if the Plaintiff does not accept the Sum offered, and cannot prove that the Tythes were of greater Value, he must be condemned in all the Costs, and so the Defendent will escape with Impunity.

This second Objection is then of little Weight, and indeed I have been much surprized to have heard Gentlemen of clear Conception, just Precision, and good Understanding use this Argument in this Case, why shou'd a spiritual Judge determine a spiritual Matter? When the Argument might justly be retorted, why should a temporal Judge determine a temporal Matter? The REASON is very evident; because both have the most competent Knowledge, and are the properest Judges in each Case within their Sphere.

I would not by this insinuate that Men are actuated more by Prejudice, than Reason, in the Point before us. I will not throw Reflections and say, with Clerical Zealots, that Religion is banished, that Virtue is only a Word; that to promote Self-interest, and the Indulgence of the whole Train of Passions is the sole Pursuit of Mankind, and therefore that it is no Wonder, since Religion is in Contempt, that the Support of its Officers and Ministers should be thought a Burthen, and the heaviest Grievance
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to Society : That it is not the Mode of paying, but the Payment itself that gives Offence.

Why should the Clergy be supported in Luxury and Idleness ? is the Clamour, say they :

No Doubt, I say, they should not ; and as this is but the Clamour of a few, I hope also that there are but Few that deserve that Censure :

For if there are some that misuse their Income, and pervert the End for which they receive it, it would be very severe to deprive others of their Right on that Account : or even those that are guilty ; because they are subject to other Penalties, and not to a total Deprivation of their Livings.

It is also said, but said by those who take positive Assertions for real Truths, and who have neither Capacities for fair Reasoning, nor unprejudiced Judgment for distinguishing Matters ; that the Clergy neglect their Duty, that they regard not their Spiritual, but that their whole Attention is taken up with their Temporal Business : and that from thence Religion decays, and will at last perish.

This is not only the private Insinuation, but the open Declaration of many in publick Company, who will scarcely exempt one from this infamous

Imputation. Neglects I am sure there are, nor shall I justify those that are guilty; or throw the Guilt of some upon the whole Profession:

If that was a Rule of acting, I know not the Profession that would escape.

But I hope and am convinced by the Candour of a Christian, and the fair Dictates of an unprejudiced Understanding, that the Generality of the Clergy are not to blame: And let me tell the Man of just Notions and true Principles of Virtue (but such I am afraid is not the Person who thus censures) that it is his Duty to bring the Offender to Punishment.

The Public Welfare and the Good of Religion demand it of him, particularly when he sees that no Redress is sought for this Offence by any other.

And if his Parish Minister neglects his Duty, he may voluntarily promote the Office against him; and if the Ordinary is partial in his Sentence, and will not do Justice, he has his Appeal from his Judgment: and in the last Resource (I may say) to Temporal Judges, the Delegates.

This would be acting like a Man of noble Spirit, and a true Christian: whereas general Reflections to Men of Sense prove nothing; and argue only the meanest Malice.

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The Commons are the natural, and almost immediate Guardians of the Clergy.

Since Convocations have ceased, and they have given up the Right of taxing themselves, they choose their Representatives with the rest of the People; and therefore those Representatives are to protect and defend their Property and Privileges.

And this present House of Commons hath shewn their Attention to, and Care of the Clergy in this Respect: And when a Motion was made last Session by a particular Member, highly reflecting upon that Set of Men, and imputing the Growth of Popery chiefly to their Non-residence, a Fact that could never be supported, they opposed the Motion: And he, as candidly, like an honest Man, that intended nothing but what was Right, upon his being better informed, withdrew it. And since Residence is mentioned; I do think, at least that the Clergy within my Sphere, reside as much as they possibly can.

It is a known Fact, that Glebes are in the general not only diminished, but almost altogether lost. The Troubles in 1641, and the subsequent Conduct of several Persons have annihilated some, and curtailed the rest.

These Losses, with the Impropropriations, have rendered many Parishes of little Value, so that Four

or Five, episcopally united, amount very seldom to more than Sixty Pounds, *per Ann.* And these without perhaps a Church, or a Foot of Glebe, and in a Mountainous Country, with at most Two or Three Protestant Families, if any.

I beg Leave to ask therefore, what Residence there can be in this Case ? None that is comfortable, I am sure !

And I am sure also, that in many other more favourable Cases, the Difficulty of residing will be very great on Account of the Want of Glebes.

If therefore the Wisdom of the Legislature would find out the Means of purchasing proper Glebes, particularly for Parishes where there are Churches in Service, and a decent Number of Protestant Families, it would with the Laws now in being most effectually enforce Residence :

For the Clergy incited by their own Interest, would occupy their own Houses and Lands, rather than pay, it may be, an extraordinary Rent to others.

And thus this Plea, or supposed Cause of the Advancement of Popery, would be removed.

But, if Popery is really the Object of Attention, and the Prevention of its Increase the Subject of Consideration :

There

There must be some Means found out for the Conversion of the lower Class of Papists.

They are not at all discursive, they are incapable of Reasoning, or of comprehending the Inferences and Deductions that are drawn from just Principles; and if St. *Paul* was to argue with, or preach to them, he would have little Weight, unless he exerted his miraculous Powers, in feeding them with Loaves, or healing their Infirmities.

Something then is to be done: But what can be done? when their Ignorance is so great, their Prejudices so strong, and the Influence their Priests have over them so powerful? Nothing; until the Number of those Spiritual Tyrants, and Suppressors of Reason, is lessened.

For while, as now, there are above six of them (by the most moderate Computation) to one Protestant Clergyman; what can be expected?

I now submit what I have said to the Legislature in particular, and to every candid Reader in general:

And I do profess myself, a Friend to Moderation, and an Enemy to Oppression, but a Lover of our Constitution in Church and State.

And

And whatever my Notions of Religion are, yet as a Member of Society, I wish that the meanest Individual belonging to it, may enjoy his Right : And shall always think it incumbent on me, to support its Laws ; and in Obedience to them, shall chearfully give Tribute to whom Tribute is due, Custom to whom Custom, Fear to whom Fear, Honour to whom Honour.

THE END.

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